

REMARKS

Claims 1-7 and 16-21 are pending in this application. For purposes of expedition, claims 29-43 have been canceled without prejudice or disclaimer. Claims 1-4 and 16-18 have been amended in several particulars for purposes of clarity and brevity that are unrelated to patentability and prior art rejections in accordance with current Office policy, to further and alternatively define Applicants' disclosed invention and to assist the Examiner to expedite compact prosecution of the instant application.

Claims 29-33 and 41 have been allowed without the necessity of amendments. Claims 34-35 have been conditionally allowed if revised to overcome the rejection under 35 U.S.C. §112, 2nd paragraph. The Examiner's indication of allowability of these claims is noted with appreciation. However, for purposes of expedition, claims 29-33 and 41 along with claims 34-40 and 42-43 have been canceled without prejudice or disclaimer and shall be reinstated in due course for allowance.

The drawings have been objected to under 37 C.F.R. §1.121(d). Specifically, the Examiner asserts that the drawings do not show the "replacement area, the temporary defect management area, and the defect management area (DMA)". However, FIG. 5 clearly illustrates an example spare area disposed between a user data area and a lead-in area or a lead-out area, as shown, for example, in FIGS. 1A-1B, as including a replacement area (i.e., a replacement cluster). The temporary defect management area (TDMA) and the defect management area (DMA) are included in either the lead-in area or the lead-out area on a recording medium, shown in FIGS. 1A-1B and described in Applicants' specification. There is no need to specifically show the locations of the lead-in area or the lead-out area in which the temporary defect management area (TDMA) and the defect management area (DMA) are included. In view of these explanations, Applicants trust that the objection be withdrawn.

Claims 16-19, 21, 42 and 43 have been provisionally rejected on the ground of non-statutory obviousness-type double patenting as being unpatentable over claims 1, 2, 3, 5, 7, 23 and 24 of co-pending Application No. 11/227,922 for reasons stated on pages 4-6 of the Office Action (Paper No. 20061128). For purposes of expedition, a terminal disclaimer is enclosed to overcome the rejection.

Claims 34 and 35 have been rejected under 35 U.S.C. §112, second paragraph, as being indefinite. Specifically, the Examiner asserts that there is no antecedent basis for the term

"the recording state". As previously discussed, claim 34 has been canceled without prejudice or disclaimer to render the rejection moot.

Claims 1-7, 16, 17, 19-21, 39, 40, 42 and 43 have been rejected under 35 U.S.C. §102(e) as being anticipated by Takahashi, U.S. Publication No. 2002/0136537 for reasons stated on pages 7-11 of the Office Action (Paper No. 20061128). As previously discussed, claims 39, 40, 42 and 43 have been canceled without prejudice or disclaimer. In support of the rejection of base claims 1 and 16, the Examiner cites FIG. 19, paragraphs [0074], [0075], [0111] and [0104] of Takahashi '537 for allegedly disclosing a recording medium comprising a spare area, a replacement area (both are located between the inner and outer peripheries), a temporary defect management area storing temporary management information identifying the defective area and the replacement area, wherein position information regarding the defective area is recorded in the replacement area.

However, FIG. 19 of Takahashi '537 only illustrates how an optical pickup first moves to a replacement destination (movement 21) to record desired data at the replacement destination, then moves to the DMA in the user area (movement 22) to update the DMA, and after that, returns to original position (movement 23). However, DMA of Takahashi '537 does not store Applicants' claimed "defect information identifying the defective area and the replacement area".

Moreover, the DMA of Takahashi '537 serves a different function. Specifically, according to Takahashi '537, "pieces of position information indicating the position of the DMA are recorded in the inner and outer peripheries" as shown in FIG. 19 (see paragraph [0076] of Takahashi '537). However, the entity of the DMA itself is recorded in a replacement destination, as shown in FIG. 19.

In contrast to Takahashi '537, Applicants' base claims 1 and 16 require that "position information regarding the defective area" be recorded "in the replacement area", which is part of a spare area inside a data area disposed between a lead-in area and a lead-out area, and **not** in the lead-in area or the lead-out area, as disclosed by Takahashi '537.

In other words, Takahashi '537 is completely silent as to the use of a replacement area in which position information regarding the defect area is recorded, as defined in Applicants' base claims 1 and 16, Applicants respectfully request that the rejection of claims 1-7, 16, 17, 19-21, 39, 40, 42 and 43 be withdrawn. In addition, Takahashi '537 also fails to disclose or suggest Applicants' claimed "defect information includes defect management information to manage the temporary defect information, and wherein the defect information is updated in the defect

management area (DMA) every recording operation or in response to a predetermined number of recording operations" as defined in dependent claims 2 and 17.

Lastly, claim 18 has been rejected under 35 U.S.C. §103(a) as being unpatentable over Takahashi, U.S. Publication No. 2002/0136537 for reasons stated on pages 11-12 of the Office Action. Applicants respectfully traverse this rejection primarily for the same reasons discussed against the rejection of base claim 17.

In view of the foregoing amendments, arguments and remarks, all claims are deemed to be allowable and this application is believed to be in condition to be passed to issue. Should any questions remain unresolved, the Examiner is requested to telephone Applicants' attorney at the Washington DC office at (202) 216-9505 ext. 232.

To the extent necessary, Applicants petition for an extension of time under 37 CFR §1.136. If there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 503333.

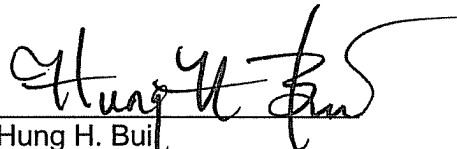
Respectfully submitted,

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